THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17817 of 2005

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FRIDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Sri Panjala Kistaiah S/o. Mallaiah, Hindu
R/o. Jagityal, Karimnagar District,

..... PETITIONER

AND

1 The State of Andhra Pradesh, Rep. by Prohibition & Excise Superintendent, Karimnagar District,
2 The Deputy Commissioner of Prohibition & Excise, Karimnagar District,
3 The Prohibition & Excise Inspector, Jagtial,

.....RESPONDENTS

The Court, at the stage of admission, made the following:

Oral order:-

The writ petition is filed by the President, Toddy Tappers' Co-operative Society, Jagital No.2, Karimnagar district. The toddy shop was inspected on 09-07-2005 and the spot test revealed adulteration *inter alia* with Chloral Hydrate. The toddy was destroyed after three samples having been taken under a panchanama. A case has been registered against the licensee under Rule 24 of the A.P. Excise (Arrack and Toddy License General Conditions) Rules, 1969. The license was suspended by the proceedings dated 18-07-2005, while also issuing a notice why the license be not cancelled.

While so, on 04-08-2005, the petitioner made an application to the 1st respondent along with a requisite challan seeking sending of one of the sample bottle to an independent examiner for testing for adulteration. According to Rule 24 of the Rules, as amended in G.O.Ms.No.1120, Revenue (EX.II) dated 11-11-2003, which amendment is applicable to and operational as on the date of inspection of the petitioner's shop on 09-07-2005, if the licensee desires that the sample should be sent to an independent laboratory, he should apply to the Excise Superintendent within seven (7) days

of the drawal of the sample. Even in a case where licensee or any one of his Nowkarnama holder was not present at the time of taking of sample, the licensee should apply within seven (7) days from the date of communication of drawal of sample by the Excise Superintendent. The petitioner has not applied within the time and is therefore, not entitled to a direction to the respondents to send the second sample. That the sample was drawn was known to the petitioner by receiving the order of suspension admittedly on 28-07-2005. In any event, as the application for sending the second sample to an independent laboratory has not been made within seven (7) days from the date of drawal of sample i.e., seven (7) days from 09-07-2005, no direction to send the second sample could be issued.

On the above analysis, no relief could be granted. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated: 12-08-2005

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